

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1937 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 27-8-5-2.5 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in
- 5 this section, the term "policy of accident and sickness insurance" does
- 6 not include the following:
- 7 (1) Accident only, credit, dental, vision, Medicare supplement,
- 8 long term care, or disability income insurance.
- 9 (2) Coverage issued as a supplement to liability insurance.
- 10 (3) Automobile medical payment insurance.
- 11 (4) A specified disease policy issued as an individual policy.
- 12 (5) A limited benefit health insurance policy issued as an
- 13 individual policy.
- 14 (6) A short term insurance plan that:
- 15 (A) may not be renewed; and
- 16 (B) has a duration of not more than six (6) months.
- 17 (7) A policy that provides a stipulated daily, weekly, or monthly
- 18 payment to an insured during hospital confinement, without
- 19 regard to the actual expense of the confinement.
- 20 (8) Worker's compensation or similar insurance.
- 21 (9) A student health insurance policy.
- 22 (b) The benefits provided by an individual policy of accident and
- 23 sickness insurance may not be excluded, limited, or denied for more
- 24 than twelve (12) months after the effective date of the coverage
- 25 because of a preexisting condition of the individual **if the individual**
- 26 **received medical advice concerning, diagnosis of, care for, or**
- 27 **treatment for the preexisting condition during the twelve (12)**
- 28 **month period before the effective date of the coverage.**
- 29 (c) An individual policy of accident and sickness insurance may not
- 30 define a preexisting condition, a rider, or an endorsement more
- 31 restrictively than as:
- 32 (1) a condition that would have caused an ordinarily prudent

1 person to seek medical advice, diagnosis, care, or treatment
2 during the twelve (12) months immediately preceding the
3 effective date of enrollment in the plan;

4 (2) a condition for which medical advice, diagnosis, care, or
5 treatment was recommended or received during the twelve (12)
6 months immediately preceding the effective date of enrollment in
7 the plan; or

8 (3) a pregnancy existing on the effective date of enrollment in the
9 plan.

10 (d) An insurer shall reduce the period allowed for a preexisting
11 condition exclusion described in subsection (b) by the amount of time
12 the individual has continuously served under a preexisting condition
13 clause for a policy of accident and sickness insurance issued under
14 IC 27-8-15 if the individual applies for a policy under this chapter not
15 more than thirty (30) days after coverage under a policy of accident and
16 sickness insurance issued under IC 27-8-15 expires.

17 **(e) Notwithstanding subsections (b) and (c), an individual policy**
18 **of accident and sickness insurance may contain a waiver of**
19 **coverage for a specified condition and any complications that arise**
20 **from the specified condition if:**

21 **(1) the period for which the exemption would be in effect does**
22 **not exceed five (5) years; and**

23 **(2) all of the following conditions are met:**

24 **(A) The insurer provides to the applicant before or at the**
25 **time of issuance of the policy written notice explaining the**
26 **waiver of coverage for the specified condition and**
27 **complications arising from the specified condition.**

28 **(B) The offer of coverage includes the waiver in a separate**
29 **section stating in bold print or on a separate form that the**
30 **applicant is receiving coverage with an exception for the**
31 **waived condition.**

32 **(C) The offer of coverage does not include more than two**
33 **(2) waivers per individual.**

34 **(D) The waiver period is concurrent with and not in**
35 **addition to any applicable preexisting condition limitation**
36 **or exclusionary period.**

37 **(E) Upon written request by the insured, the insurer agrees**
38 **to review the underwriting basis for the waiver and shall**
39 **remove the waiver if the evidence of insurability available**
40 **to the insurer at the time of the review is satisfactory. An**
41 **insured may not make a request under this section more**
42 **than once in a twelve (12) month period.**

43 **(F) The insurer discloses to the applicant that the applicant**
44 **may decline the offer of coverage and apply for a policy**
45 **issued by the Indiana comprehensive health insurance**
46 **association under IC 27-8-10.**

47 **The insurer shall require an applicant to initial the written notice**
48 **provided under subdivision (2)(A) and the waiver included in the**
49 **offer of coverage under subdivision (2)(B) to acknowledge**
50 **acceptance of the waiver of coverage. An offer of coverage under**
51 **a policy including a waiver under this subsection does not preclude**
52 **eligibility for an Indiana comprehensive health insurance**

1 association policy under IC 27-8-10-5.1(a).

2 (f) Notwithstanding subsection (e), an individual policy of
3 accident and sickness insurance may not contain a waiver of
4 coverage for a mental health condition.

5 SECTION 2. IC 27-8-5-19.2 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
7 UPON PASSAGE]: Sec. 19.2. (a) This section applies to a group
8 policy or certificate of accident and sickness insurance:

9 (1) that covers the members of an association or discretionary
10 group; and

11 (2) under which a certificate of coverage is issued to an
12 individual member of the association or discretionary group.

13 (b) Notwithstanding section 19 of this chapter, a policy or
14 certificate described in subsection (a) may contain a waiver of
15 coverage for a specified condition and any complications that arise
16 from the specified condition if:

17 (1) the period for which the waiver would be in effect does not
18 exceed five (5) years; and

19 (2) all of the following conditions are met:

20 (A) The insurer provides to the applicant before or at the
21 time of issuance of the policy or certificate written notice
22 explaining the waiver of coverage for the specified
23 condition and complications arising from the specified
24 condition.

25 (B) The offer of coverage includes the waiver in a separate
26 section stating in bold print or on a separate form that the
27 applicant is receiving coverage with an exception for the
28 waived condition.

29 (C) The offer of coverage does not include more than two
30 (2) waivers per individual.

31 (D) The waiver period is concurrent with and not in
32 addition to any applicable preexisting condition limitation
33 or exclusionary period.

34 (E) Upon written request by the insured, the insurer agrees
35 to review the underwriting basis for the waiver and shall
36 remove the waiver if the evidence of insurability available
37 to the insurer at the time of the review is satisfactory. An
38 insured may not make a request under this section more
39 than once in a twelve (12) month period.

40 (F) The insurer discloses to the applicant that the applicant
41 may decline the offer of coverage and that any individual
42 to whom the waiver would have applied may apply for a
43 policy or certificate issued by the Indiana comprehensive
44 health insurance association under IC 27-8-10.

45 (c) The insurer shall require an applicant to initial the written
46 notice provided under subsection (b)(2)(A) and the waiver included
47 in the offer of coverage under subsection (b)(2)(B) to acknowledge
48 acceptance of the waiver of coverage.

49 (d) An offer of coverage under a policy or certificate including
50 a waiver under this section does not preclude eligibility for an

Indiana comprehensive health insurance association policy under IC 27-8-10-5.1(a).

(e) Notwithstanding subsection (b), a policy described in subsection (a) may not contain a waiver of coverage for a mental health condition."

Page 7, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 4. IC 27-8-10-5.1, AS AMENDED BY P.L.233-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) Except as provided in subsections (b) and (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. **However, an offer of coverage described in IC 27-8-5-2.5(e) or IC 27-8-5-19.2(b) does not affect an individual's eligibility for an association policy under this subsection.** Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

(b) Except as provided in IC 27-13-16-4, a person is eligible for an association policy upon a showing that:

- (1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;
- (2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or
- (3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

(c) The board of directors may establish procedures that would permit:

- (1) an association policy to be issued to persons who are covered by a group insurance arrangement when that person or a dependent's health condition is such that the group's coverage is in jeopardy of termination or material rate increases because of that person's or dependent's medical claims experience; and
- (2) an association policy to be issued without any limitation on preexisting conditions to a person who is covered by a health insurance arrangement when that person's coverage is scheduled to terminate for any reason beyond the person's control.

(d) An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full-time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent

1 is and continues to be both:

- 2 (1) incapable of self-sustaining employment by reason of mental
 3 retardation or mental or physical disability; and
 4 (2) chiefly dependent upon the person in whose name the contract
 5 is issued for support and maintenance.

6 However, proof of such incapacity and dependency must be furnished
 7 to the carrier within one hundred twenty (120) days of the child's
 8 attainment of the limiting age, and subsequently as may be required by
 9 the carrier, but not more frequently than annually after the two (2) year
 10 period following the child's attainment of the limiting age.

11 (e) An association policy that provides coverage for a family
 12 member of the person in whose name the contract is issued must, as to
 13 the family member's coverage, also provide that the health insurance
 14 benefits applicable for children are payable with respect to a newly
 15 born child of the person in whose name the contract is issued from the
 16 moment of birth. The coverage for newly born children must consist of
 17 coverage of injury or illness, including the necessary care and treatment
 18 of medically diagnosed congenital defects and birth abnormalities. If
 19 payment of a specific premium is required to provide coverage for the
 20 child, the contract may require that notification of the birth of a child
 21 and payment of the required premium must be furnished to the carrier
 22 within thirty-one (31) days after the date of birth in order to have the
 23 coverage continued beyond the thirty-one (31) day period.

24 (f) Except as provided in subsection (g), an association policy may
 25 contain provisions under which coverage is excluded during a period
 26 of three (3) months following the effective date of coverage as to a
 27 given covered individual for preexisting conditions, as long as medical
 28 advice or treatment was recommended or received within a period of
 29 three (3) months before the effective date of coverage. This subsection
 30 may not be construed to prohibit preexisting condition provisions in an
 31 insurance policy that are more favorable to the insured.

32 (g) If a person applies for an association policy within six (6)
 33 months after termination of the person's coverage under a health
 34 insurance arrangement and the person meets the eligibility
 35 requirements of subsection (b), then an association policy may not
 36 contain provisions under which:

- 37 (1) coverage as to a given individual is delayed to a date after the
 38 effective date or excluded from the policy; or
 39 (2) coverage as to a given condition is denied;

40 on the basis of a preexisting health condition. This subsection may not
 41 be construed to prohibit preexisting condition provisions in an
 42 insurance policy that are more favorable to the insured.

43 (h) For purposes of this section, coverage under a health insurance
 44 arrangement includes, but is not limited to, coverage pursuant to the
 45 Consolidated Omnibus Budget Reconciliation Act of 1985."

46 Page 9, after line 18, begin a new paragraph and insert:

47 "SECTION 8. [EFFECTIVE UPON PASSAGE] IC 27-8-5-2.5, as
 48 amended by this act, and IC 27-8-5-19.2, as added by this act, apply
 49 to a policy of accident and sickness insurance that is issued or

1 **delivered after the effective date of this act.**

2 **SECTION 9. An emergency is declared for this act."**

3 Renumber all SECTIONS consecutively.

(Reference is to EHB 1937 as printed April 6, 2001.)

Senator NUGENT